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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/928,764	08/13/2001	Franklin E. Parks	44446A	8760
7590		03/08/2004	EXAMINER	
Locke, Liddell & Sapp, LLP		SERGENT, RABON A		
3400 Chase Tower		ART UNIT		
600 Travis Street		PAPER NUMBER		
Houston, TX 77002-3095		1711		

DATE MAILED: 03/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/928,764

Applicant(s)

PARKS ET AL.

Examiner

Rabon Sergent

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 November 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,5,7-9,11,12,24,25 and 27-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,5,7-9,11,12,24,25 and 27-41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

1. Claims 36 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The language of claim 36 is not grammatically correct; "comprising" should be "comprises".

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later

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invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 1, 5, 7, 9, 24, 25, and 27-41 are rejected under 35 U.S.C. 102(e) as being anticipated by Jakubowski et al. ('027).

Patentees disclose aqueous polyurethane dispersions, having a solids content and particle size that reads on applicants' claims, suitable for the production of films. Furthermore, patentees disclose that the dispersion is produced, in the absence of solvents, by dispersing a polyurethane prepolymer into water in the presence of a surfactant, such as sodium dodecyl benzene sulfonate. Patentees further disclose the use of 4,4'-MDI and polyol reactants for producing the prepolymer. See abstract, columns 3-5, and examples.

4. Despite applicants' response, the reference clearly discloses that the diisocyanate reactant is preferably 4,4'-MDI, and the position is taken that applicants' claimed P,P'-isomer content is met by this disclosure, because the processing of 4,4'-MDI inherently yields an insignificant quantity of other isomers; as a result it is reasonable to conclude that the P,P'-isomer content is slightly below 100 percent and meets the applicants' claimed percent values.

5. Claims 1, 5, 7, 9, 24, 25, and 27-41 are rejected under 35 U.S.C. 102(a) as being anticipated by WO 98/41552.

The reference discloses aqueous polyurethane dispersions, having a solids content and particle size that reads on applicants' claims, suitable for the production of films. Furthermore, the reference discloses that the dispersion is produced, in the absence of solvents, by dispersing a polyurethane prepolymer into water in the presence of a surfactant, such as sodium dodecyl

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benzene sulfonate. The reference further discloses the use of 4,4'-MDI and polyol reactants for producing the prepolymer. See abstract, pages 2-6, and examples.

6. Despite applicants' response, the reference clearly discloses that the diisocyanate reactant is preferably 4,4'-MDI, and the position is taken that applicants' claimed P,P'-isomer content is met by this disclosure, because the processing of 4,4'-MDI inherently yields an insignificant quantity of other isomers; as a result it is reasonable to conclude that the P,P'-isomer content is slightly below 100 percent and meets the applicants' claimed percent values.

7. Claims 1, 5, 7, 9, 11, 24, 25, and 27-41 are rejected under 35 U.S.C. 102(a) as being anticipated by WO 98/41554.

The reference discloses aqueous polyurethane dispersions, having a solids content and particle size that reads on applicants' claims, suitable for the production of films. Furthermore, the reference discloses that the dispersion is produced, in the absence of solvents, by dispersing a polyurethane prepolymer into water in the presence of a surfactant, such as sodium dodecyl benzene sulfonate. The reference further discloses the use of 4,4'-MDI and polyol reactants for producing the prepolymer. See abstract, pages 4-12, and examples; especially page 10, lines 4, 5, and 10. Since the number of disclosed isocyanate species for producing the prepolymer is limited and since 4,4'-MDI is specifically recited, the reference is deemed to be anticipatory.

8. Despite applicants' response, the reference clearly discloses the use of 4,4'-MDI for producing the prepolymer, and the position is taken that applicants' claimed P,P'-isomer content is met by this disclosure, because the processing of 4,4'-MDI inherently yields an insignificant quantity of other isomers; as a result it is reasonable to conclude that the P,P'-isomer content is slightly below 100 percent and meets the applicants' claimed percent values.

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9. Claims 8, 11, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 98/41552 or WO 98/41554, each in view of Alsaffar ('602).

As aforementioned within paragraphs 5-8, the primary references disclose aqueous polyurethane dispersions, having a solids content and particle size that meets applicants' claims, suitable for the production of films. Furthermore, the references disclose that the dispersion is produced, in the absence of solvents, by dispersing a polyurethane prepolymer into water in the presence of a surfactant, such as sodium dodecyl benzene sulfonate. The references further disclose the use of 4,4'-MDI and polyol reactants for producing the prepolymer. Though the primary references disclose the application of the dispersions to substrates and disclose the production of films, the primary references fail to specifically recite the use of the aqueous dispersions to produce items, such as gloves and condoms. However, the use of aqueous dispersions to produce such items was known at the time of invention. This position is supported by the teachings of Alsaffar at column 2, lines 18+. Therefore, it would have been obvious to use the aqueous dispersions of the primary references to produce the items recited within the claims.

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication should be directed to R. Sergent at telephone number (571) 272-1079.

R. Sergent  
February 22, 2004

  
RABON SERGENT  
PRIMARY EXAMINER